

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.694 OF 1989

The State of Maharashtra ...Appellant

Vs.

1.Sau.Kumudini Narayan Rajwade
2.Sau.Kamal Bridhar Paranjape
3.Sau.Vijaya Madhav Karve
through their Power of Attorney
Prakash Vasudeo Deodhar ...Respondents

**WITH
FIRST APPEAL NO. 1057 OF 1989**

1.Sau.Kumudini Narayan Rajwade
2.Sau.Kamal Biridhar Paranjape
3.Sau.Vijaya Madhav Karve
(since deceased through L.Rs.)
3(1) Sunita Sunil Gadre
3(2) Gayatri Ganesh Sane
3(3) Sneha Sanjay Sahastrabuddhe
3(4) Mangesh Madhav Karve ...Appellants

Vs.

The Special Land Acquisition Officer, Panvel ...Respondent

FIRST APPEAL NO.695 OF 1989

The State of Maharashtra ...Appellant

Vs.

Joma Balu Bhagat ...Respondent

**WITH
FIRST APPEAL NO.1075 OF 1989**

Joma Balu Bhagat ...Appellant

Vs.

Special Land Acquisition Officer, Panvel ...Respondent

FIRST APPEAL NO.1083 OF 1989

1. Budhaji Namdeo Bhagat
(since deceased through his L.Rs)
1(1) Smt. Premila Budhaji Bhagat
1(2) Pramod Budhaji Bhagat
1(3) Sau. Jayashri Anant Bhoir

2. Krishna Namdeo Bhagat

3. Shri Joma Balu Bhagat
(since deceased through his L.Rs.)
3(1) Smt. Gangubai Joma Bhagat
3(2) Sau. Chahubai Ambaji Patil
3(3) Sau. Bebibai Panduran Bhoir
3(4) Sau. Kalibai Mahadev Bhoir
3(5) Sharad Joma Bhagat
3(6) Sau. Hirabai Dharma Patil
3(7) Sau. Shrada Shravan Patil
through their Power of Attorney
Prakash Vasudeo Deodhar

4. Tulshiram Bama Bhagat ...Appellants

Vs.

The Special Land Acquisition Officer, Panvel ...Respondent

**WITH
FIRST APPEAL NO.739 OF 1989**

.SP1

The State of Maharashtra ...Appellant

Vs.

1. Budhaji Namdeo Bhagat
2. Krishna Namdeo Bhagat
3. Joma Kalu Bhagat
4. Tulshiram Bama Bhagat
(matter stands dismissed as per
order dated 4-12-2003 as against
Respondent Nos.1 and 3)

...Respondents

FIRST APPEAL NO.1097 OF 1989

1. Hiru Gosavi Bhopi
(since deceased through L.Rs.)
1-A Anubai Hiru Bhopi (since deceased through his
L.Rs. Appellant Nos.1B to 1E)
1-B Shashikant Hiru Bhopi

1-C Vasant Hiru Bhopi
1-D Krishnabai G. Bhoir
1-E Kamlabai Gurunath Patil ...Appellants

Vs.

The Special Land Acquisition Officer, Panvel ...Respondent

FIRST APPEAL NO.684 OF 1989

The State of Maharashtra ...Appellant

Vs.

1.Bhagwan Chichya Mhatre
2.Smt.Namubai Chichya Mhatre
3.Smt.Janabai Tukaram Petkar
4.Smt.Balibai Ambaji Mhatre ...Respondents

FIRST APPEAL NO.1084 OF 1989

Gajanan Shankar Bhagat
(since deceased through his L.Rs)
1-A Namdeo Gajanan Bhagat
1-B Balaram Gajanan Bhagat ...Appellants

Vs.

The Special Land Acquisition Officer, Panvel ...Respondent

Mr.K.K.Tated, A.G.P. for the Appellant in F.A.Nos.694/1989
695/1989 and for the Respondent in F.A.Nos.1075/1089,
1083/1989, 1097/1989, 1057/1989

Mr.Y.M.Nakhawa, A.G.P. for the Appellant in F.A.Nos.739/1989
and 684/1989 and for Respondent in F.A.No.1084/1989

Mr.S.M.Kamble with Mr.R.V.Pai for the Appellants in
F.A.Nos.1057/1989, 1084/1989, 1097/1989, 1083/1989 and
1075/1989 and for the Respondents in F.A.Nos.739/1989,
684/1989, 695/1989, 694/1989.

CORAM: A.S.OKA, J.
DATED: APRIL 28, 2006.

ORAL JUDGMENT:

1. These Appeals can be disposed of by a common Judgment.

These Appeals arise out of Awards made under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act). The lands which are subject matter of these Appeals are situated at Village Kamothe, Taluka Panvel, District Raigad. The lands were notified by a notification dated 3rd February 1970 under section 4 of the said Act for the public purpose of the development of the satellite city of Navi Mumbai. In all these cases the Awards under section 11 have been passed after 30th April 1982. By the impugned Judgments and Awards, the Reference court has fixed the market value at the rate of Rs.15/- per sq.Mtr.

2. Shri Kamble learned Advocate appearing on behalf of the claimants placed reliance on the decision of the Division Bench of this Court (Coram: Puranik and Moharir, JJ.) dated 25th May and 26th February 1993 in First Appeal No.754 of 1986 (Nama Padu Hudar and others Vs. The State of Maharashtra) and other connected First Appeals. He submitted that these Appeals will be covered by the said decision of the Division Bench and in all these cases the Appellants will be entitled to enhancement in the market value. The learned A.G.P. for the State submitted that in fact considering the location of the lands and nature of the acquired lands, the market value granted by the Reference Court is on the higher side and the market value as fixed by the Reference Court will have to be reduced.

3. I have considered the submissions. The reliance is placed on the decision of the Division bench of this Court in case of Nama Padu Hudar Vs. State of Maharashtra (Supra). The Division Bench dealt with the Appeals arising out of References under section 18 of the said Act from villages Panvel and Kamothe of Taluka Panvel, District Raigad where the lands were acquired under a notification dated 3rd February 1970 under section 4 of the said Act for the same public purpose.

4. After considering the location of various lands and nature of the lands, the Division Bench divided the acquired lands in five categories depending upon its distance from National Highway and Zill Parishad Road. The Division Bench has fixed different market value for the lands falling in the said five categories. The Apex Court by its decision dated 6th March 2006 in Civil Appeal No.1557 of 2006 (Shantadevi Ruparel Vs. Special Land Acquisition Officer) expressly upheld the said decision of the Division Bench of this Court and directed to pay compensation as per the rate fixed in case of Nama Padu Hudar (supra). There is no reason why the decision of Division bench of this Court should not be followed in the present case. As the said decision of the Division Bench has attained finality, these cases will have to be decided in terms of the said decision.

5. So far as First Appeal No.1057 of 1989 is concerned, the distance of the acquired land from Bombay-Pune Highway is 3220 sq. meters. Thus the land is not covered by any of the categories fixed in case of Nama Padu Hudar (supra). However, this court by its Judgment dated 27th April 2006. in First Appeal No.697 of 1989 and other connected Appeals after considering the decision in case of Nama Padu Hudar (Supra) has come to the conclusion that in case of lands which are located at a distance of 2200 meters to 3200 meters from Bombay Pune Highway, the market rate will have to be fixed at Rs.18/- per sq. meter. Accordingly in this case the market value will have to be fixed at the rate of Rs.18/- per sq. meters. Accordingly, the Appeal will have to be partly allowed. The Cross Appeal preferred by the State being First Appeal No. 694 of 1989 will have to be dismissed.

6. So far as the First Appeal No.684 of 1989 is concerned, the acquired land is situated at a distance of 2240 meters from Bombay Pune National Highway. Hence, the market value at the rate of Rs.18/- will have to be awarded. Therefore, the said Appeal preferred by the State deserves to be dismissed and the Cross Objection Stamp No.27804 of 2004 will have to be allowed.

7. Coming to the First Appeal No.1075 of 1989, the distance of the acquired land from Bombay-Pune National Highway is 400 meters and therefore it falls under the category II fixed in the decision of Nama Padu Hudar (Supra) and hence the rate of Rs.23/- per sq.mtr. will have to be awarded. Accordingly, the said Appeal will have to be allowed and the Cross Appeal being the First Appeal No.695 of 1989 preferred by the State will have to be dismissed.

8. In case of First Appeal no.1083 of 1989 the acquired land is located at the distance of 400 from Bombay Pune National Highway. As the said land will fall in category II, the rate will have to be fixed at Rs.23/- per sq.mtr. Accordingly, the Cross Appeal being First Appeal No.739 of 1989 will have to be dismissed.

9. In case of First Appeal no.1084 of 1989, the distance of the acquired land from the Bombay-Pune National Highway is 3440 meters. Therefore, the market value will be Rs.18/- per sq.meter.

10. In First Appeal no.1097 of 1989, as per the report of the valuer on the record of the Trial Court, the the distance of the acquired land from Bombay-Pune National Highway is 2080/- meters. Accordingly, the market value will have to be fixed at Rs.20/- per sq.meter.

11. Hence, I pass the following order :

FIRST APPEAL NO.1057 OF 1989

i) Appeal is partly allowed. The impugned Judgment and Award is modified.

ii) The original claimants will be entitled to market value at the rate of Rs.18/- per sq.meter together with statutory benefits under section 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

iii) The claimants will be entitled to proportionate costs of the reference proceeding and the First Appeal from the State Government.

iv) The Reference Court will calculate the amount of compensation payable to the claimants within a period of four months from the date of receipt of writ of this order.

FIRST APPEAL NO.694 OF 1989

i) Appeal is dismissed.

ii) The Appellant will pay costs of the Appeal to the Respondents.

FIRST APPEAL NO. 1075 OF 1989

i) Appeal is partly allowed. The impugned Judgment and Award is modified.

ii) The original claimant will be entitled to market value at the rate of Rs.23/- per sq.meter together with statutory benefits under section 23 (1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

iii) The claimant will be entitled to proportionate costs of the reference proceedings and First Appeal from the State Government.

iv) The Reference Court will calculate the amount of compensation payable to the claimant within a period of four months from the date of receipt of writ of this order.

FIRST APPEAL NO.695 OF 1989

i) Appeal is dismissed.

ii) The Appellant will pay costs of the Appeal to the Respondent.

FIRST APPEAL NO.1083 OF 1989

i) Appeal is partly allowed. The impugned Judgment and Award is modified.

ii) The original claimants will be entitled to market value at the rate of Rs.23/- per sq.meter together with statutory benefits under sections 23 (1-A), 23(2) and 28 of the Land Acquisition Act,1894.

iii) The claimants will be entitled to proportionate costs of the reference proceeding and First Appeal from the State Government.

iv) The Reference Court will calculate the amount of compensation payable to the claimants within a period of four months from the date of receipt of writ of this order.

FIRST APPEAL NO.739 OF 1989

i) Appeal is dismissed.

ii) The Appellant will pay costs of the Appeal to the Respondents.

FIRST APPEAL NO.1097 OF 1989

i) Appeal is partly allowed. The impugned Judgment and Award is modified.

ii) The original claimants will be entitled to market value at the rate of Rs.20/- per sq.meter together with statutory benefits under sections 23 (1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

iii) The claimants will be entitled to proportionate costs through out from the State Government.

iv) The Reference Court will calculate the amount of compensation payable to the claimants within a period of four months from the date of receipt of writ of this order.

FIRST APPEAL NO.684 OF 1989

i) Appeal is dismissed.

ii) The Appellant will pay costs of the Appeal to the Respondents.

iii) The Cross Objection Stamp No.27404 of 2004 is partly allowed. The impugned Judgment and Award is modified.

iv) The original claimant will be entitled to market value at the rate of Rs.18/- per sq. meter together with statutory benefits under Sections 23 (1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

v) The claimants will be entitled to the proportionate costs of the reference proceeding and Cross Objection from the State Government.

vi) The Reference Court will calculate the amount of compensation payable to the claimants within a period of four months from the date of receipt of writ of this order.

FIRST APPEAL NO.1084 OF 1989

i) Appeal is partly allowed. The impugned Judgment and Award is modified.

ii) The original claimants will be entitled to market value at the rate of Rs.18/- per sq.meter together with statutory benefits under sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

iii) The claimants will be entitled to proportionate costs of the reference proceeding and First Appeal from the State Government.

iv) The Reference Court will calculate the amount of compensation payable to the claimants within a period of four months from the date of receipt of writ of this order.

Judge.